

2005 DRAFTING REQUEST

Bill

Received: **01/06/2005**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Garey Bies (608) 266-5350**

By/Representing: **Andrew Nowlan**

This file may be shown to any legislator: **NO**

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - drugs**

Extra Copies: **mgd**

Submit via email: **YES**

Requester's email: **Rep.Bies@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Inhalation of toxic inhalants

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L Crime
/1	chanaman 01/11/2005	jdyer 02/02/2005	pgreensl 02/02/2005	_____	lnorthro 02/02/2005	lnorthro 02/07/2005	

FE Sent For:

<END>

↳ At Intro.

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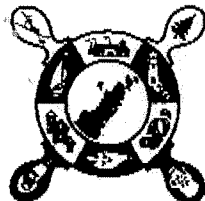
See Attached

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/?	chanaman	1/2/05	pr	Self			

FE Sent For:

<END>



Door County Clerk

NANCY A. BEMMANN

421 NEBRASKA STREET

P.O. BOX 670

STURGEON BAY, WI 54235-0670

PHONE: (920) 746-2200

FAX: (920) 746-2330

FAX TRANSMISSION

To:

Gary Lics

DEPT:

From:

Nancy A. Bemmann
Door County Clerk

RE:

Ord. 2004-19

Date:

PAGES INCLUDING COVER:

4

SPECIAL INSTRUCTIONS:

I got busy & forgot all about you!Hopes you can be at our after election party
at the Reef on Nov. 11th beginning at 6:00pm



DOOR COUNTY

Ordinance No. 2004-19
CREATION OF DOOR COUNTY CODE CHAPTER 31.40 -
PROHIBITION OF POSSESSION, SALE AND USE OF TOXIC
INHALANTS (INHALING TOXIC VAPORS FOR EFFECT)

The Door County Board of Supervisors does hereby ordain as follows:

1. This Ordinance, designated as Chapter 31.40 of the Door County Code, is enacted under the authority granted by Wisconsin Statute Sections 59.02, 59.03, 59.04, 59.54(22) and 66.0113.
2. Section 941.315, Wisconsin Statutes, or as subsequently amended or revised, to the extent such prohibits the possession, distribution or delivery of nitrous oxide is hereby incorporated by reference and made a part of this ordinance as if fully set forth herein.
3. Conduct which is the same or similar to that prohibited by Section 941.315 Wisconsin Statutes, or as subsequently amended or revised, is prohibited by this Ordinance.
4. A dominant aim of this ordinance is the protection of the public from the negative effects of inhalant use that threatens health or safety.
5. **Definitions:**
 - A. **Toxic Vapors** – As used in this Section, the term "toxic vapors" shall mean the vapors of the following compounds or the vapors of products containing such compounds:
 - (1) **Surface Coatings:** Acrylonitrile; butyl alcohol; camphor; cyclohexanone; ethyl acetate; ethyl benzene; glycidol; hexane; sec-hexyl acetate; lead; manganese; mercury; mesityl oxide; methyl alcohol; methyl (n-aryl) ketone; 5-methyl-3-heptone; naphtha; 2-pentanone (MPK); 1-propyl acetate; 1,1,2,2-tetrachloroethane.
 - (2) **Solvents:** Acetate, acetone; acetonitrile; benzene; butyl alcohol; butyl mercaptan; carbon disulfide; carbon tetrachloride; cresol; cumene; cyclohexane; cyclohexanone; 1,2-dichloroethylene; dimethyl sulfate; ethanol; ethyl bromine; ethylene dichloride; hexane; isopropyl alcohol; mesityl oxide; methylal; methyl acetate; methyl alcohol; methyl chloroform; methyl ethyl ketone; methyl isobutyl ketone; methyl cellosolve; methylcyclohexanol; methylene chloride; naphtha; naphthalene; 1-nitropropane; n-propyl acetate; pyridine; stoddard solvent; 1,1,2,2-tetrachloroethane; tetrachloroethylene, tetrahydrofuran; toluene; toluol; trichloroethane; trichloroethylene; 1,2,3-trichloropropane; triorthocresyl phosphate; xylene;
 - (3) **Narcotics:** 1,3-butadiene; tert-Butyl chromate; chlorobromomethane (Halon); methyl chloride; 1,2,3-trichloropropane; trifluorobromomethane (Halon);
 - (4) **Fuel additives:** Decaborane; diborane; L.P.G.; methyl hydrazine; phosphorus pentasulfide; petroleum ether; propane; tetraethyl lead; tetramethyl lead; tetranitromethane; tin;
 - (5) **Automotive antifreeze:** 1,2-dimethylhydrazine;
 - (6) **Photographic developers:** Hydroquinone;
 - (7) **Medical apparatus:** Mercury;
 - (8) **Paper impregnation:** Diphenyl;
 - (9) **Flame resistance/water proofing:** Pentachloronaphthalene; pentachlorophenol
 - (10) **Anti-corrosion:** Hydrazine; pentaborane;
 - (11) **Combustibles:** n-Butyl glycidyl ether;
 - (12) **Explosives:** Dinitrobenzene; 2,4,6-trinitrotoluene;
 - (13) **Antiseptics/sanitizers:** Bromine, iodine;
 - (14) **Pesticides:** Aldrin; 2-aminopyridine; azinphos-methyl (Guthion) butyl mercaptan; camphor; carbaryl (Sevin); carbon disulfide; carbon tetrachloride; chlordane; chlorinated camphene; cyanides; 2,4-D; DDT; demeton; dichlorvos; dieldrin; demethyl-1,2-dibromo-2; 2-dechloroethyl phosphate; endrin; EPN; ethlene chlorohydrin; ethylene dichloride; fluorides;

ORDINANCE 2004-19
CREATION OF DOOR COUNTY CODE CHAPTER 31.40 -
PROHIBITION OF POSSESS, SALE AND USE OF TOXIC INHALANTS
(INHALING TOXIC VAPORS FOR EFFECT)

Page 2 of 3

heptachlor; hydrogen cyanide; lindane; malathion; methyl bromide; methyl formate; methyl hydrazine; methyl iodide; naphthalene; nicotine; parathion; phosdrin; pyrethrum; rotenone; sodium fluoroacetate; strychnine; sulfuryl fluoride; TEPP; tellurium; TEPP; 1,1,2,2-tetrachloroethane; thallium; tin.

(15) Nitrous Oxide

B. Common examples: The following shall serve as examples of common products containing toxic vapor compounds, but is not meant to limit the prohibitions contained herein: glue, paint, gasoline, aerosol, adhesive cement.

6. Use or Possession. It shall be unlawful for any person intentionally to smell or inhale toxic vapors or fumes from toxic inhalants for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses or nervous system, or to possess, buy or use any such substance for the purpose of violating or aiding another to violate this section.

7. Under the Influence. It shall be unlawful for any person to be intentionally under the influence of any toxic vapors.

8. Sale.

A. It shall be unlawful for any person who knows, or should know that a substance or compound releases toxic vapors that could be used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses or nervous system to sell, give, deliver, or furnishing any substance releasing toxic vapors to any minor without the personal or written consent of parent, guardian, or other person or persons having legal care or custody of such minor.

B. It shall be unlawful for any person, except a person who is at the time of such sale actually employed by or engaged in operating a bona fide commercial establishment at a fixed location, to sell to any other person any substance or compound releasing toxic vapors, and all sales of such substance not made in or from such establishment not made in or from such an establishment shall be unlawful.

C. It shall be unlawful for any person knowingly to sell or offer for sale, deliver, or give away to any other person, or to knowingly assist or aid another in the sale or offer for sale, deliver or give away to any other person, any substance or compound releasing toxic vapors, where the seller, offerer, deliverer or donor knows or has reason to believe that such substance or compound will be used for the purpose of inducing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulled senses or nervous system.

9. Exception: This section shall not apply to the inhalation of anesthesia for medical or dental purposes.

10. Penalties.

A. Any person found guilty of violating this Ordinance or any part of this Ordinance shall be subject to a forfeiture of not less than \$50.00 nor more than \$1000.00 dollars, together with court costs and costs of prosecution.

11. Enforcement.

A. Issuance of a citation pursuant to and in accordance with Wis. Stat. §66.0113 and Door County Code Chapter 35.



ORDINANCE 2004-19
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PROHIBITION OF POSSESS, SALE AND USE OF TOXIC INHALANTS
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Page 3 of 3

ROLL CALL Board Members	Aye	Nay	Exc.
ANDERSON			X
AUSTAD	X		
BRAHN	X		
CORBISIER	X		
FISHER	X		
FONTAINE	X		
GULLEY	X		
HAINES	X		
HILSABECK			X
JEANQUART	X		
LIEBE	X		
MOST	X		
MULLIKEN	X		
POLICH	X		
RUNQUIST		X	
RYAN	X		
SACOTTE	X		
SAVARD	X		
VIKREE	X		
WIEGAND	X		
ZIPPERER	X		

18 1 2

BOARD ACTION		
Vote	Majority Roll Call Vote of a	
Required:	Quorum	
Motion to Approve	Enacted	<input checked="" type="checkbox"/>
1st <u>Sacotte</u>	Defeated	<input type="checkbox"/>
2nd <u>Savard</u>		
No: _____	Yes: _____	Exc: _____

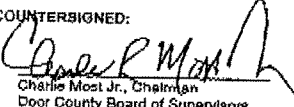
Reviewed by:		Colin Sacotte, Corp. Counsel
Reviewed by:		Mark Savard, Administrator

Certification:

I, Nancy A. Bemmman, Clerk of Door County, hereby certify that the above is a true and correct copy of an ordinance that was enacted on the 28th day of September, 2004 by the Door County Board of Supervisors.


 Nancy A. Bemmman
 County Clerk, Door County

COUNTERSIGNED:


 Charlie Most Jr., Chairman
 Door County Board of Supervisors

12. **Reference to Statutes.** Reference to specific statutory sections whenever used in this Ordinance shall mean Wisconsin Statutes as amended, modified, repealed or otherwise altered by the Wisconsin State Legislature.

13. **Relationship to Other Laws:**

A. The enactment of this ordinance shall not preclude the County of Door from enacting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or any other matters.

B. The procedures and remedies set forth herein may be used in the alternative or in consonance with or in lieu of any other remedy or procedure authorized by law.

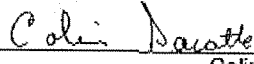
C. Neither commencement of an action, nor legal remedy granted, under this ordinance may be deemed former jeopardy for purposes of concurrent or subsequent criminal proceedings relating to the same or any other matter.

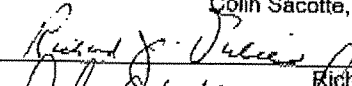
14. **Severability.**


A. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

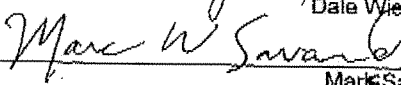
15. **Effective Date.** This Ordinance shall be effective upon adoption and publication by the Door County Board of Supervisors as provided by law.

SUBMITTED BY:
LAW ENFORCEMENT COMMITTEE


 Colin Sacotte, Chairman


 Richard Virlee


 Dale Wiegand


 Mark Savard

Susan Hilsabeck



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1529/1

CMH:.....

2/8

Jld

2005 BILL

1

reg cat
AN ACT ...; relating to: abuse of hazardous substances and providing penalties. ✓

Analysis by the Legislative Reference Bureau

This bill prohibits a person from abusing, or possessing with the intent to abuse, a hazardous substance. The bill defines "abuse" as the use of a hazardous substance with the intent to induce intoxication or elation, to stupefy the central nervous system, or to change the human audio, visual, or mental processes. A person who violates this prohibition is subject to a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both. The prohibition does not apply to the possession or use of a hazardous substance that is obtained from a practitioner while acting in the course of professional practice.

The bill also prohibits a person from distributing, or possessing with the intent to distribute, a hazardous substance if the person knows or should know that the hazardous substance will be abused. A person who violates this prohibition is subject to a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both. The prohibition on distribution does not apply to a person who distributes hazardous substances in an ordinary course of business.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

BILL

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 941.316^X of the statutes is created to read:

2 **941.316 Abuse of hazardous substance.** (1) In this[✓] section:

3 (a) "Abuse" means to ingest, inhale, or otherwise introduce into the human
4 body a hazardous substance in a manner that does not comply with any cautionary
5 labeling that is required for the hazardous substance under s.[✓] 100.37 or under
6 federal law, or in a manner that is not intended by the manufacturer of the hazardous
7 substance, and that is intended to induce intoxication or elation, to stupefy the
8 central nervous system, or to change the human audio, visual, or mental processes.

9 (b) "Distribute"[✓] means to transfer a hazardous substance from one person to
10 another.

11 (c) "Hazardous substance"[✓] has the meaning given in s.[✓] 100.37 (1) (c) and
12 includes any substance or mixture of substances that has the capacity to produce
13 personal injury or illness to a person who abuses the substances.[↗]

14 (2) Whoever does any of the following is guilty of a[✓] Class A misdemeanor:

15 (a) Possesses a hazardous substance with the intent to abuse the hazardous
16 substance.

17 (b) Intentionally abuses a hazardous substance.

18 (3) Whoever distributes, or possesses with intent to distribute, a hazardous
19 substance, knowing or having reason to know that the hazardous substance will be
20 abused, is guilty of a[✓] Class I felony.

BILL

1 (4) Subsection (2) does not apply to a person who possesses or uses the
2 hazardous substance if the substance is obtained from, or pursuant to a valid
3 prescription or order of, a practitioner, as defined in s. 961.01 (19), while acting in
4 the course of professional practice.

5 (5) Subsection (3) does not apply to a person who distributes a hazardous
6 substance in an ordinary course of business.

(END)

Northrop, Lori

From: Nowlan, Andrew
Sent: Monday, February 07, 2005 1:34 PM
To: LRB.Legal
Subject: Draft review: LRB 05-1529/1 Topic: Inhalation of toxic inhalants

It has been requested by <Nowlan, Andrew> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-1529/1 Topic: Inhalation of toxic inhalants